

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

KRAFT FOODS GLOBAL, INC., THE	)	
KELLOGG COMPANY, GENERAL	)	
MILLS, INC., and NESTLÉ USA, INC.,	)	
	)	
Plaintiffs,	)	No. 1:11-cv-08808
	)	
v.	)	Judge Charles R. Norgle
	)	
UNITED EGG PRODUCERS, INC.,	)	
UNITED STATES EGG MARKETERS,	)	
INC., CAL-MAINE FOODS, INC.,	)	
MICHAEL FOODS INC., and ROSE ACRE	)	
FARMS, INC.	)	
	)	
Defendants.	)	

**JOINT STATUS REPORT**

Pursuant to the Court’s Third Amended General Order 20-0012 entered on April 24, 2020 (Dkt. 86), the Parties submit this Joint Status Report.

Plaintiffs claim that Defendants violated Section 1 of the Sherman Act, 15. U.S.C. § 1, by agreeing to limit the production of eggs and thereby illegally to raise the prices that Plaintiffs paid for processed egg products. Defendants deny that they have violated Section 1, that they agreed to limit egg production, and that they have illegally raised prices for eggs or processed egg products.

**A. Status Of Discovery**

Discovery was completed before this case was remanded from an MDL proceeding pending in the United States District Court for the Eastern District of Pennsylvania, *In re: Processed Egg Products Antitrust Litigation*, MDL No. 2002 (the “Processed Egg Antitrust Litigation”).

**B. Status Of Briefing On Any Unresolved Motions**

There are no unresolved motions.

**C. Settlement**

The parties are not presently engaged in settlement efforts.

**Plaintiffs' position:** Plaintiffs have settled with 8 of the original 13 Defendants. Plaintiff Kellogg Company recently settled with current Defendants Michael Foods, Inc. and Cal-Maine Foods, Inc. Those settling parties have submitted Stipulations of Dismissal (ECF Docket Nos. 21 and 22) and Proposed Orders dismissing Kellogg's claims against Michael Foods and Cal-Maine.

Plaintiffs participated in a formal mediation session in 2013 with Cal-Maine Foods and in a separate formal mediation session in 2013 with other Defendants including current Defendants Michael Foods, Rose Acre Farms, United Egg Producers, and United States Egg Marketers. Plaintiffs had settlement discussions in 2018 and 2019 with Cal-Maine and in 2018 with Michael Foods. Based on these past discussions, Plaintiffs do not believe that settlement negotiations will be fruitful until this case is on the eve of trial.

Defendants refer below to two prior trials in the MDL proceeding. However, Plaintiffs were not involved in those trials, nor were Defendants Michael Foods and Cal-Maine. Both cases are now on appeal in the Third Circuit. Plaintiffs believe they will present a very strong case at trial.

**Defendants' position:** In December 2019, after a 6-week jury trial in the Eastern District of Pennsylvania of claims brought by 12 grocery store chains concerning the same conspiracy plaintiffs allege here, the jury found "no conspiracy to reduce the supply of eggs," resulting in a complete defense verdict in favor of defendants Rose Acre Farms, UEP, and USEM. Indeed, these plaintiffs could have tried their claims in that EDPA trial. And in 2018, a class of direct purchasers also tried the same conspiracy claims to a jury, and after a 5-week trial, that jury too found in all

defendants' favor. After two multi-week trials and two complete defense verdicts from two separate juries, defendants believe this case can and should be resolved without empaneling a third jury, particularly in these uncertain COVID-19 times. Therefore, defendants are willing to explore whether a reasonable, good-faith settlement could be reached.

**D. Proposed Schedule For Next 45 Days**

**Plaintiffs' position:** Plaintiffs request that, as soon as feasible given the current circumstances, the Court enter a scheduling order for preparing this case for trial. Plaintiffs' proposed schedule is as follows:

Oct. 12, 2020 Parties exchange proposed witness lists, exhibit lists, and deposition designations  
Nov. 12, 2020 Parties file motions in limine  
Dec. 11, 2020 Parties file objections to witness lists, exhibit lists, and deposition designations  
Dec. 18, 2020 Parties file counter deposition designations  
Dec. 18, 2020 Parties file responses to motions in limine  
Jan. 13, 2021 Oral argument on motions in limine  
Jan. 18, 2021 Parties file responses to objections to witness lists, exhibit lists, and deposition designations  
Jan. 18, 2021 Parties file objections to counter deposition designations  
Feb. 5, 2021 Parties file proposed voir dire questions, jury instructions, verdict forms, and joint statement of case  
Feb. 12, 2021 Parties exchange drafts of the Final Pretrial Order  
Feb. 26, 2021 Parties submit Final Pretrial Order  
March 2, 2021 Final Pretrial Conference  
Case ready for trial

**Defendants' position:** Given the provisions of the Chief Judge's Third Amended General Order and the anticipation of an updated General Order on May 26, 2020 that will further inform civil case timelines, it is premature to set a pretrial schedule. Accordingly, Defendants believe that there are no aspects of this case that require a schedule for the next 45 days.

**E. Any Agreed Proposed Revised Discovery and Dispositive Motion Schedule**

No such schedule is necessary because discovery and dispositive motions have been completed.

**F. Any Agreed Action The Court Can Take Without A Hearing**

**Plaintiffs' position:** The only action that needs to be taken is to enter a schedule for preparation of the final pretrial order. That can be done based upon the parties' submissions without the need for a hearing.

**Defendants' position:** There is no agreed action that the Court can take at this time without a hearing.

**G. Whether A Telephonic Hearing Is Necessary And Urgent**

**Plaintiffs' position:** A telephonic status conference would be helpful on the scheduling of the preparation of the final pretrial order, but is not necessary and time urgent.

**Defendants' position:** Pending the provisions of the Chief Judge's anticipated May 26 Order, a telephonic hearing with the Court is neither necessary nor urgent. Defendants suggest that it might be appropriate to schedule an initial telephonic status conference 50-60 days from now, at which point the Court and the parties may have a better sense of the schedule for reopening the courts and what sort of pretrial schedule might be realistic.

Respectfully Submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on May 18, 2020, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all CM/ECF participants registered to receive service in this action.

/s/ Patrick Collins

Patrick M. Collins